

TRAIL CREEK ZONING ORDINANCE
GALLATIN COUNTY, MONTANA

ADOPTED JULY 24, 1991

AMENDED APRIL 8, 1993

AMENDED JUNE 10, 1993

AMENDED AUGUST 12, 1993

AMENDED APRIL 14, 1994

TABLE OF CONTENTS

	PAGE
SECTION 1 - TITLE, CREATION AND ADOPTION.....	3
SECTION 2 - PURPOSES.....	3
SECTION 3 - DEFINITIONS.....	4
SECTION 4 - ESTABLISHMENT OF DISTRICTS.....	7
SECTION 5 - APPLICATION OF DISTRICT REGULATIONS.....	10
SECTION 6 - R-20 AGRICULTURAL, RESIDENTIAL SINGLE FAMILY, ONE DWELLING PER TWENTY ACRES.....	11
SECTION 7 - P.U.D. PLANNED UNIT DEVELOPMENT.....	13
SECTION 8 - SUPPLEMENTARY REGULATION.....	17
SECTION 9 - HOME BUSINESSES.....	19
SECTION 10 - SIGNS.....	20
SECTION 11 - CONDITIONAL USES.....	21
SECTION 12 - NON-CONFORMING LOTS, USES AND STRUCTURES.....	24
SECTION 13 - VARIANCES.....	27
SECTION 14 - ADMINISTRATION.....	29
SECTION 15 - MINIMUM REQUIREMENTS.....	31
SECTION 16 - AMENDMENTS AND CHANGES.....	31
SECTION 17 - VIOLATION OF ORDINANCE.....	32
SECTION 18 - INVALIDATION	32
SECTION 19 - ADOPTION	33

SECTION 1 TITLE, CREATION AND ADOPTION

- 1.1 This ordinance shall be known as the Trail Creek Zoning Ordinance and is adopted specifically for the Trail Creek Zoning District. The district has been created by resolution of the Board of County Commissioners, Gallatin County, Montana.
- 1.2 Pursuant to Section 76-2-101, M.C.A. there has been created a Planning and Zoning Commission for the Trail Creek Zoning District which consists of the three County Commissioners, the County Surveyor and the County Assessor.
- 1.3 Pursuant to Section 76-2-101, M.C.A., there is hereby adopted a development pattern consisting of the Trail Creek Zoning Ordinance, Zoning Map, and Trail Creek Zoning District General Plan.
 - 1.3.1 The Planning and Zoning Commission shall have all the powers given to it by the state statutes of the State of Montana and by this ordinance.

SECTION 2 PURPOSES

- 2.1 The purpose of this ordinance is to:
 1. Promote the health, safety, and general welfare of County residents;
 2. Lessen congestion in the streets;
 3. Secure safety from fire, panic, and other dangers;
 4. Provide adequate air and light;
 5. Prevent overcrowding of land;
 6. Avoid undue concentration of population;
 7. Facilitate the adequate provision of transportation, water, sewage, parks, and other public requirements;
 8. Promote the preservation of wildlife and fish habitat;
 9. Protect scenic qualities, fresh air, groundwater, and open space;
 10. Preserve the rural atmosphere;
 11. Provide for orderly growth of agricultural pursuits;

12. Encourage good design and orderly growth.
- 2.2 This ordinance is adopted under provision of Section 76-2-101 through Section 76-2-112, M.C.A., and is intended to be in effect only when adopted under said law in conjunction with a zoning map.

SECTION 3 DEFINITIONS

For the purpose of this ordinance certain terms and words are defined as follows: Words used in the present tense shall also include the future; words or phrases used in the singular shall also include the plural, and words used in the plural shall also include the singular; the word "building" includes structure and "structure" includes building; the words "used" or "occupied" shall include within their meaning "intended, arranged, or designed to be used or occupied". The word "person" shall include corporation, partnership, or other legal entity. Where other definitions are necessary and are not defined herein, the Trail Creek Planning and Zoning Commission may define such terms.

- 3.1 Accessory Building or Use - A building or use which: (1) is subordinate in area, extent or purpose to the principal building or principal use served; (2) contributes to the comfort, convenience, or necessity of occupants of the principal building or principal use.

A. Accessory dwelling unit - A second dwelling unit either in or detached from the main dwelling unit. The accessory dwelling is on the same lot as the primary dwelling unit, and is a complete independent living facility.
- 3.2 Agriculture - The tilling of soil, the raising of crops, horticulture and gardening, dairying or animal husbandry including all uses customarily incidental thereto, but not including any agriculture industry or business such as fruit packing plants, fur farms, animal hospitals, commercial dog kennels, commercial feed lots or similar uses.
- 3.3 Building - A structure, having a roof, and built for support, shelter, or enclosure of persons, animals, chattels, or property of any kind.
- 3.4 Building Height - The vertical distance from the average elevation of the proposed finished grade at the front of a building to the highest point of a flat roof, the deck line of a mansard roof, and the mean height between eaves and ridge for gable, hip and gambrel roofs.

- 3.5 Building Perimeter - The foundation walls of a building and/or supports for appendages thereto.
- 3.6 Conditional Use - Uses, other than permitted uses, that may be allowed in a specific zoning category, but which require a public hearing by the governing body to consider additional safeguards to maintain and assure the health, safety, and general welfare of the community and to maintain the character of the Trail Creek Zoning District.
- 3.7 Density - The total number of dwelling units allowed per gross acre.
- 3.8 Dwelling, Single Family - A building designed with complete, permanent, and independent living facilities for one family.
- 3.9 Dwelling Unit - A building or portion thereof providing permanent cooking, eating, sleeping and living facilities for one family and its resident domestic employees.
- 3.10 Family - Any individual or two or more persons related by blood or marriage, or a group of not more than four persons excluding servants) who need not be related by blood or marriage, living together as a single non-profit housekeeping unit.
- 3.11 General Plan - General plan shall include any document or portion of any document duly adopted by the Zoning Commission which is intended to guide the growth and development of the area.
- 3.12 Home Business - The use of a portion of a dwelling or accessory building for business conducted on the premises. The home business may require the use of additional vehicles, have a greater impact on the neighborhood than a home occupation, and have a sign.
- 3.13 Home Occupation - The use of a portion of a dwelling or accessory structure as an office, studio, or work room for occupations at home. The activity must be clearly incidental to the use of the dwelling for a residence and shall not change the character or appearance thereof. In addition, the activity shall have no impact on the surrounding neighborhood, and shall not result in any smells, noise, or create additional traffic greater than that caused by normal residential use.
- 3.14 Landscaping - The placement of ornamental fixtures such as fountains, ornamental walls, fences, benches, along with vegetative plantings of trees, shrubs, grass, flowers, etc. This definition shall also include the designing of the placement of such materials.
- 3.15 Lot - A parcel or plot of land shown as an individual unit of ownership on the most recent plat or other record of subdivision.

- 3.16 Lot, corner - A lot situated at the junction of and abutting on two or more streets.
- 3.17 Lot, coverage - The total area of a lot covered by the principal and accessory buildings.
- 3.18 Lot lines - The lines bounding a lot as defined herein.
- 3.19 Lot width - The width of a lot along a line parallel to the frontage thereof and lying a distance equal to the required front yard setback on such lot.
- 3.20 Manufactured Housing - Residential dwellings constructed entirely or substantially off-site.
- 3.21 Mobile Home - Forms of housing known as "trailers", "housetrailers", or "trailercoaches", built to be transportable on its own chassis, comprised of frame and wheels, and designed to be used as a dwelling when connected to appropriate utilities.
- 3.22 Mobile Home Subdivision - A parcel of land that has been reviewed and approved for the placement of mobile homes for residential use.
- 3.23 Motor Home - See Travel Trailer, Section 3.31.
- 3.24 Natural Wood Siding - Wood in a natural state or milled, but not to include any reformed product or type of plywood.
- 3.25 Parking Lots - A structure or an area, other than a public street or alley designed or used for the temporary parking of motor vehicles and available for public use whether free, for compensation, or an accommodation for customers or clients.
- 3.26 Parking space, off-street - A space located off any public right-of-way which is at least nine feet by twenty feet in size for parking of any motor vehicle, with room to get out of either side of the vehicle, with adequate maneuvering space, and with access to public streets or alleys.
- 3.27 Planned Unit Development - An area of land in single ownership or control to be developed as a single integrated unit, the plan for which may not correspond in lot size, bulk or type of building, density, lot coverage, use, and required open space to the regulations established in the district.

- 3.28 Sign - Any face of any lettered or pictorial device and/or structure designed to inform or attract attention.
- 3.29 Structural alteration - Any change in the shape or size of any portion of a building or of the supporting members of the building or structure such as walls, columns, beams, arches, girders, floor joist, or roof joist.
- 3.30 Structure - That which is built or constructed, an edifice or building of any kind or any piece of work artificially built up or composed of parts joined together in some definite manner.
- 3.31 Travel Trailer - A vehicular portable structure designed as a temporary dwelling for travel, recreation, and vacation uses which is not more than eight feet in body width.
- 3.32 Use - Any purpose for which a building or other structure or a tract of land may be designed, arranged, intended, maintained, or occupied or any activity, occupation, business, or operation carried on or intended to be carried on in a building or other structure or on a tract of land.
- 3.33 Variance - A device which grants a property owner relief from certain provisions of the zoning ordinance when, because of the particular physical surroundings, shape, or topographical condition of the property, compliance would result in a particular hardship upon the owner, as distinguished from an inconvenience.
- 3.34 Yard, front - An open space extending across the full width of the lot between the front building line and the front lot line.
- 3.35 Yard, rear - An open space extending across the full width of the lot between the rear building line and the rear lot line.
- 3.36 Yard, side - An open space extending from the side building line to a side lot line running from the front to the rear lot lines.
- 3.37 Zoning Enforcement Agent - The duly authorized agent appointed by the Planning and Zoning Commission for the purpose of administering and enforcing this ordinance.

SECTION 4 ESTABLISHMENT OF DISTRICTS

- 4.1 The jurisdiction of the Trail Creek Zoning District is hereby divided into one zone or "district", as shown on the official zoning map, which together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this ordinance.

4.2 Certificate

The Official Map shall be available in the County Clerk and Recorder's Office and shall bear a certificate with the signature of the Chairman of the Board of County Commissioners attested by the County Clerk and the date of adoption of this ordinance. The Certificate should read as follows:

This is to certify that this is the Official
Zoning Map referred to in Section 4 of the
Trail Creek Zoning District Ordinance.

CHAIRMAN, BOARD OF COUNTY
COMMISSIONERS

Attested _____

Date of Adoption _____

If any changes to the map are made by amendment of this ordinance in accordance with Section 16 hereof, such changes shall be made to the Official Zoning Map and signed, dated, and certified upon the map or upon the material attached thereto.

Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map kept in the office of the County Clerk and Recorder shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the zoning district.

4.3 Replacement of Official Zoning Map

In the event that the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes or additions thereto, the Trail Creek Planning and Zoning Commission may adopt and certify a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or admissions in the prior map, but no such corrections shall have the effect of amending the original zoning map or any subsequent amendment thereof.

"This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted _____ as part of the zoning ordinance for Trail Creek Zoning District, Gallatin County, Montana.

CHAIRMAN, BOARD OF COUNTY
COMMISSIONERS

Attested _____

Date _____ "

4.4 Interpretation of Boundaries - Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the boundaries shall be interpreted as following the nearest logical line to that shown where:

1. Boundaries indicated as approximately following the center line of streets, highways, or alleys, shall be construed to follow such center lines;
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
3. Boundaries indicated as approximately following city limits shall be construed as following such city limits;
4. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks(s);
5. Boundaries indicated as following the center line of streams, rivers, canals, or ditches shall be construed to follow such center lines;
6. Boundaries indicated as parallel to or extensions of features indicated on the Official Zoning Map shall be determined by the scale of the map;
7. Boundaries indicated as following Section lines of quarter section lines of quarter-quarter section lines shall be construed as following such lines;
8. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map or where other circumstances or controversy arise over district boundaries, the Board of County Commissioners shall interpret the district boundary

4.5 Interpretation of Uses - If questions arise concerning the appropriate classification of a particular use, or if the specific use is not listed, the Zoning Commission shall determine the appropriate classification for that use.

In interpreting use classification, the Zoning Commission shall determine:

1. That the use and its operation are compatible with the uses permitted in the district wherein the use is proposed to be located.
2. That the use is similar to one or more uses permitted in the district wherein it is proposed to be located.
3. That the use will not cause substantial injury to values of property in the neighborhood or district wherein it is proposed to be located.
4. That neither the intent of the ordinance nor the intent of the district will be abrogated by such classification.

SECTION 5 APPLICATION OF DISTRICT REGULATIONS

Except as herein provided in Sections 8, 9, 10, 11, 12, and 13, with respect to supplementary regulations, home businesses, signs, conditional uses, non-conforming uses and non-conforming buildings, and variances, the regulations set by this ordinance shall be minimum regulations and all regulations as categorized shall apply uniformly to each class or kind of structure or land and particularly:

- 5.1 No building, structure, or land shall hereafter be used or occupied, and no building, structure, or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered unless it is in conformity with all of the regulations herein specified for the district in which it is located.
- 5.2 No building or other structure shall hereafter be erected or altered: a) to exceed the height or bulk; b) to accommodate or house a greater number of families; c) to occupy a greater percentage of lot area; d) to have narrower or smaller rear yards, front yards, side yards, or other open spaces.
- 5.3 No part of any yard, or other open space, or off-street parking required about or in connection with any building for the purpose of complying with this ordinance, shall be included as part of a yard, open space, or off-street parking similarly required for any other building.
- 5.4 No yard or lot existing at the time of adoption of this ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this ordinance shall meet the minimum requirements established by this ordinance.

SECTION 6 R-20 AGRICULTURAL RESIDENTIAL SINGLE FAMILY, ONE
DWELLING PER TWENTY ACRES

6.1 Intent - The intent of this district is to provide for single family and agricultural development in areas of severe physical limitation and preserve the rural and agricultural atmosphere of the area.

6.2 Permitted Uses

1. Single family dwelling units
2. Home occupations
3. Accessory uses and accessory buildings under 1,200 square feet
4. Signs, as permitted by Section 10 of this Ordinance
5. Agricultural uses
6. Accessory dwelling unit for agricultural employees
7. Accessory dwelling unit under 1,000 square feet.
8. Temporary buildings for and during construction for up to eighteen (18) months.

6.3 Conditional Uses -

1. Metal buildings that are not in conformance with Section 8.9
2. Family day care homes as defined in Section 53-4-501, M.C.A.
3. Community residential facilities as defined in Section 76-2-411, M.C.A.
4. Accessory dwelling units not related to agricultural employees over 1,000 sq. ft.
5. The development of natural resources, including gravel pits, mines, oil and gas wells
6. Planned unit developments.
7. Home businesses

8. Temporary work camps
 9. Guest ranches
 10. Bed and Breakfasts
 11. Schools, parks
 12. Youth camps
 13. Other related uses consistent with this code.
 14. Accessory buildings over 1,200 square feet
 15. Exteriors, other than natural wood siding
- 6.4 Lot Area and Width - Lot area for any use in this district shall be not less than twenty (20) acres in size and no lot width shall be less than 660 feet.
- 6.5 Lot Length - No lot length shall be three times greater than the average width of the lot.
- 6.6 Setbacks - Every lot shall have the following minimum setbacks:
- | | |
|------------------|----------|
| Front setback | 50 feet |
| Rear setback | 50 feet |
| Side setback | 50 feet |
| Trail Creek Road | 100 feet |
- 6.7 Building Height - Maximum building height in this district shall be 32 feet.

SECTION 7 P.U.D. PLANNED UNIT DEVELOPMENT

- 7.1 Intent - The intent of this zoning map overlay is to provide, as an option, for the clustering of residential development in order to:
1. Achieve the preservation of open space and unique natural areas;
 2. Properly plan and utilize land with some areas unsuitable for development;
 3. Encourage flexibility of design;
 4. Promote attractive site planning;

5. Provide economies in the provision of public services;
6. Preserve agricultural lands; and
7. Preserve the rural atmosphere.

To achieve these purposes:

1. A greater variety of building types is permitted within this overlay.
2. Procedures are established to assure adequate maintenance and restricted use of open space areas for the benefit of the inhabitants of the subdivisions or for dedication to public use.
3. Procedures are established to assure adequate protection of existing and potential developments adjoining the proposed PUD.

7.2 Special Definitions

1. Certificate of Development Rights - A certificate entitling the owner to build (1) one single family dwelling unit per twenty acres. Interpolation is permitted by rounding off to the nearest dwelling unit.
2. Common Open Space - A parcel or parcels of land, or an area of water, or a combination of land and water within a planned unit development designated and intended for the use or enjoyment of residents of the development. Common open spaces may contain complementary structures and improvements as are necessary and appropriate for the benefit and enjoyment of occupants of the development.
3. Development Rights - One of a series of rights inherent in fee simple ownership of land (others include air rights or mineral rights). which may be separated from the land. The rights to build dwelling units on one's land, the potential for the improvement of a parcel of real property, measured in dwelling units, existing because of the zoning classification of the parcel.
4. Landowner - The legal or beneficial owner or owners of all the land proposed to be included in the PUD. The holder of an option or contract to purchase, a lessee having remaining term of not less than (20) twenty years or other persons having an enforceable proprietary interest in such land, shall be deemed to be Landowner for the purposes of these provisions.

5. Property Owners Association - An incorporated, non-profit organization operating under recorded land agreements through which (a) each property owner in the planned unit development is automatically a member and (b) each owner is automatically subject to a charge for a proportionate share of the expenses for the organization's activities and (c) common open space and facilities are maintained.
6. Transfer of Development Rights - The conveyance of development rights by certificate authorized by the Trail Creek Zoning Ordinance, to another parcel of land and the recordation of that conveyance at the Office of the Gallatin County Clerk and Recorder.
7. Site - The entire area within the perimeter boundary of a proposed planned unit development.
- 7.3 Where Permitted - Subject to the issuance of a conditional use permit, in accordance with the provisions of Section 11, a planned unit development may be permitted in the PUD designated areas.
- 7.4 Maximum Number of Units - A planned unit development may contain a maximum of six (6) dwelling units per one hundred acres. However, a planned unit development may contain up to 12 dwelling units per one hundred acres if development rights are transferred in from another part of the district.
- 7.5 Standards for Planned Unit Developments - Planned unit developments may be authorized by the Zoning Commission when the following conditions are met:
 1. The site shall be a minimum of one hundred (100) acres.
 2. Townhouse units shall have a central water and sewer system.
- 7.6 Density Bonus - A density bonus of up to twice the number of allowable units may be authorized by the Zoning Commission when development rights are transferred into the PUD area from other areas in the zoning district.
- 7.7 Permitted Uses -
 - Townhouses
 - Condominiums
 - Single family residences
 - One accessory storage unit
 - Garages
 - One rental living unit or guest unit not to exceed one thousand (1,000) square feet.
 - Home Occupations
- 7.8 Standards for Development -

1. General Design - The P.U.D. is intended to be used for clustered residential development and shall be designed and developed in a manner compatible with and complementary to existing and potential development in the immediate vicinity of the project site. Site planning on the perimeter shall give consideration to protection of the property from adverse surrounding influences, as well as protection of the surrounding area from potentially adverse influences within the development. In addition, the P.U.D. shall relate harmoniously to the topography of the site, make suitable provision for conservation of water courses, wooded areas, rough terrain and similar natural features and areas, and shall otherwise be so designed as to use such natural features and amenities to best advantage. Other developments within the area and existing agricultural lands shall be given proper attention in the design.
2. Setbacks - Every lot shall have the following minimum setbacks

Front setback	50 feet
Rear setback	50 feet
Side setback	50 feet
Stream setback	35 feet
Trail Creek Road	100 feet
3. Off-Street Parking - All residential parking shall be off street. A minimum of two off-street parking spaces shall be provided for each dwelling unit. Parking for townhouses and condominiums shall be located out of view of Trail Creek Road.
4. Open Space -
 - A. Not less than 70 percent of the planned unit development site shall be designated and maintained as common open space for the use of the occupants of the development, unless the area is designated for agricultural use. If the area is designated for agricultural use, then the use is reserved to the person who has the agricultural lease.
5. Landscaping - Landscaping may be required to provide a buffer between proposed uses or between different adjacent district classifications.
6. Height - All buildings and structures shall be a maximum of thirty-two (32) feet in height.
7. Signs - Interior street, building and other signs shall be uniform in design and in conformance with Section 10 of this Ordinance.

8. Townhouse and condominium Standards - Townhouses and condominiums shall be designed so there are not more than four individual dwelling units in each attached structure.
- 7.9 Legal Requirements - In a planned unit development containing areas or facilities of common or restricted ownership, the subdivision plat, dedication, covenants, and other recorded legal agreements shall:
1. Legally create automatic membership in a non-profit property owners association or similar instrument.
 2. Place title to any common property or facility in the property owners association.
 3. Appropriately and permanently limit the uses of common property and open space.
 4. Give each lot or unit owner the right to use and enjoyment of any common property or facility.
 5. Place responsibility for operation and maintenance of the common property in the property owners association.
 6. Place an association charge on each lot or unit in a manner which will:
 - A. Assume sufficient funds for maintenance and operation; such charge to be a lien on the property; and
 - B. Provide adequate safeguards for owners against undesirable high charges.
 7. Set forth the articles of incorporation for the property owners association.
 8. In a planned unit development located in an AR District where agricultural use of the land is to be retained. Legal documentation designating the agricultural land shall be submitted.
- 7.10 Procedures for Approval
1. The method for considering a Planned Unit Development shall be the Conditional Use Permit procedure.
 2. If the Planned Unit Development is considered a subdivision according to the definitions contained in 76-3-101 et seq., M.C.A., the development shall also be subject to review as set forth in the Gallatin County Subdivision Regulations.